

SENATE BILL 1901

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 40,
Chapter 33, relative to civil asset forfeiture.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-33-210(a), is amended by deleting the language "the burden to prove by a preponderance of evidence" and substituting instead the language "the burden to prove by clear and convincing evidence".

SECTION 2. Tennessee Code Annotated, Section 40-33-210(b)(1), is amended by deleting the subdivision in its entirety and substituting instead the following:

(A) If the seizing agency fails to carry the burden of proof at the hearing:

- (i) Forfeiture of the seized property is barred; and
- (ii) The property shall be immediately returned to the claimant.

(B) A person who has property seized in accordance with this part and who prevails in a claim or action to recover the seized property shall be entitled to:

- (i) Reasonable attorney fees and administrative hearing or court costs necessarily incurred in seeking the return of the seized property and in bringing the claim or action;
- (ii) Recovery of actual damages; and
- (iii) Interest on the fair market value of the seized property; provided, that if the seized property is cash, then interest on the actual value of the seized cash. Interest shall be calculated at the rate of one and one-half percent (1.5%) per month for the period of time the property was seized.

SECTION 3. Tennessee Code Annotated, Section 40-33-211, is amended by adding the following language as a new subsection:

Notwithstanding this section to the contrary, the first twenty-five percent (25%) of proceeds derived from any forfeiture covered by this part shall be remitted to the local education agency in the county where the seizure was made.

SECTION 4. Tennessee Code Annotated, Section 40-33-215, is amended by deleting the section in its entirety.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to all seizures under this part occurring on or after that date.